IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2665 OF 2006

Shri Haji Abdul Latif Mohammed
Isak Pawwala ...Petitioner

V/s.
Shri Shah Ali & Ors. ...
Respondents

Mr.A.R. Pitale for Petitioner.
Mr.A.S. Gadkari APP for Respondents.

CORAM : V.M. KANADE, J.
DATED : 4th AUGUST, 2007.

P.C:-

1. Heard learned counsel for the Petitioner and learned APP for State.

2. Petitioner had taken out an application U/s.94 of Cr.P.C., seeking direction from the Judicial Magistrate, First Class, for issuance of search warrant against Accused No.1 and 2 who were working with the Bhiwandi Nijampaur Municipal Council. It was alleged in the application that house of the Petitioner was demolished and certain articles namely

two doors and six windows were taken away by the Respondent No.1 and 2 without his consent and the said articles have been kept in the Municipal Godown. Respondents filed reply to the said application and it was pointed that the Respondents were public servants within the meaning of Section 21 of IPC and house in which the Petitioner was residing was an un-authorized construction. It is was further stated that the Petitioner was told to pay fine for the said un-authorized construction and then take away articles which were claimed by him. The Magistrate rejected his application. This order was confirmed by the II Extra Joint District and Additional Sessions Judge, Thane.

3. I do not see any reason to interfere with the aforesaid well reasoned order passed by the Magistrate. Petitioner, however, is at liberty to take out appropriate proceedings seeking possession and recovery of the articles. All contentions of the parties are kept open, if proceedings are taken out.

V.M. KANADE, J.